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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,221	08/17/2001	Gang (Paul) Chen	SP01-235	4902
22928	7590	11/03/2004	EXAMINER	
CORNING INCORPORATED			NGUYEN, CHAU M	
SP-TI-3-1			ART UNIT	
CORNING, NY 14831			PAPER NUMBER	
			2633	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/932,221	CHEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chau M Nguyen	2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This Office Action is in response to the Remarks/Arguments filed on 11 August, 2004.
2. Claims 1-8 have been withdrawn. Claim 9 has been amended. Drawings correction is acknowledged.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9, 11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Henry et al. (Hereinafter "Henry") (U.S. Pat. No. 6,035,080).

As claims 9 and 18, Henry discloses a method and wavelength tunable switching devices (see figs. 3 and/or 6) comprising:

- (a) an input port (through S1) and an output port (through S2);
- (b) a first optical waveguide (lower branch B);
- (c) a second optical waveguide (upper branch A), said second optical waveguide having a wavelength tunable, wavelength selectable optical component;

(d) a first switch (S1) selectively coupled to said first or said second optical waveguide for coupling signal light from said input port into either one or another of said waveguides; and

(e) a second switch (S2) selectively coupled to said first or said second optical waveguide for coupling said signal light from one of said first and second optical waveguides into said output port (col. 3, line 61- col. 3, line 7).

As claim 10, Henry discloses first and second optical waveguides are optical fiber (col. 5, lines 42-44).

As claim 11, wavelength selectable optical component of Henry is grating (col. 5, lines 35-36).

As claims 12 and 13, Henry discloses the use of 2x2 switches (col. 1, lines 40-43).

As claim 14, Henry discloses a switching device, comprising a wavelength selector (by switches 60 and 61, fig. 6, col. 5, lines 46-57) for selecting an appropriate wavelength. Henry does not clearly disclose a wavelength (controller) actuator. However, since the switches of Henry is used to select an appropriate wavelength, therefore, a controlling device must be inherently consisted with the system.

As claim 15, Henry disclose the switch is controllable by heating (col. 6, lines 38-42).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 17 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over Henry (U.S. Pat. No. 6,035,080).

As claims 16, 17 and 19, Henry does not clearly show the claimed subject matter "actuator is tension actuator" and "actuator is compression actuator". However, it is not a result of an attempt by applicant to solve a problem but merely amounts to selection of expedients known to the artisan of ordinary skill as design choices. Therefore, it would have been obvious to one having ordinary skill in the art to use any kind of actuator to control the switch.

***Response to Arguments***

7. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau M Nguyen whose telephone number is 571-272-3030. The examiner can normally be reached on Mon-Fri from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.M.N.  
Oct. 25, 2004

  
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